

REMARKS

Please reconsider the application in view of the following remarks. Applicants thank the Examiner for indicating that claim 16 is allowable and indicating that claim 18 contains allowable subject matter.

Disposition of Claims

Claims 1-21 are pending in this application. Claims 1, 8, 16, and 17 are independent. The remaining claims depend, directly or indirectly, from these claims.

Objection(s)

Claim 18 is objected to as being dependent upon a rejected base claim. Applicants believe that claim 17, from which claim 18 depends, is patentable for reasons set forth below. Accordingly, Applicants respectfully defer the rewriting of claim 18 in independent form, pending consideration of Applicants' arguments by the Examiner.

Rejection under 35 U.S.C § 102

Claims 1-6, 8-10, 11-15, 17, 20, and 21 stand rejected under 35 U.S.C. § 102 as being anticipated by U.S. Patent No. 4,141,365, issued to Fischell et al. ("Fischell"). This rejection is respectfully traversed.

Independent claims 1, 8, 16, and 17, in one embodiment, relate to a needle comprising a hollow shaft having opposed distal and proximal ends. At the top of the distal end is the opening of a lumen and at the bottom of the distal end is a cutting surface. Such an embodiment advantageously facilitates insertion into an interspinal

space, while decreasing the likelihood of trauma to the spinal fibers as the needle is inserted.

In contrast to such an embodiment, Fischell discloses a tissue stimulation apparatus having a sharpened, *oblique point* 14 (Col. 3, ll. 56-57). The Fischell apparatus may also have a point 14 that is upwardly curved (Col. 5, ll. 33-34). The point 14 of the apparatus according to Fischell, similar to that of a typical prior art medical needle, is designed to pierce tissue, in contrast to the separating/cutting design of the instant invention as shown in Figs. 1 and 5. Fischell neither discloses nor suggests a *cutting surface* on a bottom surface of a needle having an opening on an upper surface of the same distal end.

In view of the above, independent claims 1, 8, 16, and 17 are patentable over Fischell. Claims 2-6, 9, 10, 11-15, 20, and 21, which depend from claims 1, 8, 16, and 17 respectively, are similarly patentable. Therefore, withdrawal of this rejection is respectfully requested.

Rejections under 35 U.S.C § 103

Claim 7 stands rejected under 35 U.S.C. § 103 as being obvious over Fischell. This rejection is respectfully traversed.

Claim 7 depends from independent claim 1 and is therefore patentable over Fischell for at least the same reasons discussed above with respect to claim 1. In particular, Fischell neither discloses nor suggests a cutting surface located on the bottom of the distal end of a hollow shaft having an opening at its upper distal end, as recited in claim 1. Accordingly, withdrawal of this rejection is respectfully requested.

Claim 19 stands rejected under 35 U.S.C. § 103 as being obvious over Fischell in view of U.S. Patent No. 4,945,895, issued to Takai et al. ("Takai"). This rejection is respectfully traversed.

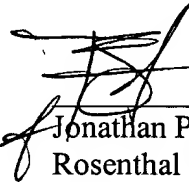
Claim 19 depends from independent claim 17 and is therefore patentable over Fischell for at least the same reasons discussed above with respect to claim 17. In particular, Fischell neither discloses nor suggest a cutting surface located on the bottom of the distal end of a hollow shaft having an opening at its upper distal end, as recited in claim 17. Takai also fails to disclose or suggest such a cutting surface and configuration as recited in claim 17. Therefore, claim 19 is patentable over Fischell and Takai. Accordingly, withdrawal of this rejection is respectfully requested.

Conclusion

Applicants believe this reply is fully responsive to all outstanding issues and places this application in condition for allowance. If this belief is incorrect, or other issues arise, the Examiner is encouraged to contact the undersigned or his associates at the telephone number listed below. Please apply any charges not covered, or any credits, to Deposit Account 50-0591 (Reference Number 06570.002002).

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Respectfully submitted,


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